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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,160	09/22/2003	Eduard K. de Jong	P8727	1672
24209 7590 09/18/2007 GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940				
			EXAMINER HOMAYOUNMEHR, FARID	
			ART UNIT 2132	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/669,160	Applicant(s) DE JONG, EDUARD K.	
	Examiner Farid Homayounmehr	Art Unit 2132	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-86.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SD/08) Paper No(s). dated 4/17/2007
 13. ☐ Other: _____.


 GILBERTO BARRON JR
 SUPERVISORY PATENT EXAMINER
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Continuation of 11. does NOT place the application in condition of allowance because applicant's argument is not persuasive:

Applicant's Information Disclosure Statement filed 8/2/2007 has been placed on file, but not considered. Based on MPEP section 1.97, an IDS filed after Final rejection shall be considered by the Office provided that the IDS is filed on or before payment of the issue fee and is accompanied by:

- (1) The statement set forth in section 1.97(e); and
- (2) The fee set forth in section 1.17(p).

With regards to obviousness-type double patenting rejection, Examiner confirms the typographical error associated with the reference used for double patenting rejection. The obviousness-type double patenting rejection is a provisional rejection based on the invention claimed in US Patent Application Publication No. 2004/0064719. Applicant argues that the rejection is not valid because the claims of the pending application are now amended and do not make the claimed invention of the instant application obvious. However, the amendments to the cited reference raise a new issue and require further consideration. Therefore the amendments are not entered.

Applicant further argues to traverse the rejection based on prior art, however the argument is found non persuasive for the following reasons:

Applicant argues that claim 1 requires "sending, by said content provisioner, said authenticated digital Content request including said one or more delivery parameters.", but the rejection failed to cite any teaching in Muntz of such request being sent. However, the rejection clearly cites paragraph 19 of Muntz, which show that the metadata server sends the request received from the client back to the client, along with credentials for the request (delivery parameters). Therefore, the rejection meets the cited requirement, and applicant's argument relative to rejection of claim 1 is not persuasive. Accordingly, applicant's argument relative to rejection of claims 10, 19, and 28 is found non persuasive.

With regards to claims 2 to 9, 11 to 18, 20 to 27, applicant argues: "The issue is not whether a URL is known, but rather how a URL would be used in Muntz and still provide the functionality required by Muntz." However, URLs are used to transfer data between parties of communication. There is no specific requirement for data to be suitable for transmission using URLs. Muntz Fig. 1 shows that the client, administrative server, and other elements of Muntz system transmit and receive the credentials, block list and other parameters over a communication network. Muntz clearly relies on existing modes and protocols of communication to transfer data between parties. Therefore it would have been obvious to the one skilled in art to use URLs (an existing and broadly practiced means for data transmission) as a means to transmit the credentials and other parameters associated with Muntz's authentication scheme.

The same argument applies for use of tokenized URL to transmit authentication parameters. Applicant's use of a well-known method to transmit data does not distinguish their invention from prior art.

Applicant's argument regarding claims 3, 4, 12, 13, 21, 22, 31, 32, 5, 14, 23, 29 is based on their dependency of claims mentioned above.

With regards to claims 6 to 9, 15 to 18, and 24 to 27, applicant argues first with regards to claim 6 that the claim is not directed at encryption, but a serial number, so the rejection fails to consider claim as a whole. However, the argument does not discuss the merits of the rejection, and fails to present any reason to substantiate the allegation that the rejection is failing to consider claim as a whole.

Applicant further argues that Muntz taught that encryption is associated with authentication not digital content. However, applicant does not identify any portion of Muntz that shows encryption is not associated with digital content.

With respect to claims 33, 50, 67 and 84, applicant further argues that since Muntz simply delivered data without encryption, it teaches away from encrypting delivered data. However, the argument is not persuasive because, even if Muntz sends data without encryption, it is not sufficient to conclude it teaches away from encrypting digital content. Mere stating that Muntz does not encrypt the digital content is not sufficient to prove that Muntz teaches away from encrypting the digital content. There is no citation from Muntz that shows data should not be encrypted, or encryption of data causes Muntz system to not function properly.

Applicant also argues that claim 33 includes specific limitations on how the target key and the first are obtained, but fails to point out those specific limitations, and presents no reason how the rejection fails to address the limitations.

Applicant further argues that claim 33 includes two specific input parameters, a timestamp T_i and a secret 64-bit seed. However, the mentioned limitations are not found in the claims at hand.

In regards to claim 34, applicant argues: "With respect to the rejection of Claim 34, the teaching at page 175 of the newly cited reference directly contradicts the conclusions reached because a time stamp and a secret random seed are taught. Thus, the reference teaches away from the interpretation given in the rejection." However, it is unclear which conclusion is contradicted. It is also unclear how teaching of time stamp and secret random seed teaches away from the interpretation given in the rejection.

With respect to claims 41 to 49, applicant argues that when a use of official notice is traversed, it is improper to continue to rely upon that notice. However, as indicated in the Final rejection, applicant's argument to traverse the official notice was found non persuasive. Therefore, the official notice is not traversed.

Applicant further argues that the invention as a whole must be shown to be obvious, and improper standard has been used. However, the rejection makes the invention as whole obvious and the applicant has not presented any argument to show that the rejection does not make the invention obvious as a whole. Mere stating that the invention as a whole is not made obvious is not a persuasive argument. Applicant must specify a reason showing that the rejection does not make the invention as a whole obvious.

With respect to claims 41 to 45, applicant argues that there is no citation of limitations, such as "incrementing a token redemption count" or "updating the offset entry". However, as the official notice shows, the additional limitations of claims 41 to 45 are all directed to the details of a token validation process, which are well known in the art. Applicant has not presented any argument that shows the mentioned limitations distinguish the invention from what the official notice considers prior art.

Applicant further argues that each of claims 46-49 includes limitations of claims 6 to 9. However, as mentioned above, applicant's argument relative to rejection of claims 6-9 was found non persuasive.

Applicant presents no arguments regarding the rejection of claims 51 to 66, 68 to 83, 85 and 86.

Based on the discussion above, the rejection of all pending claims is maintained.